

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00087

MARK BOLLING

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion for a continuance of trial and all related deadlines. (ECF No. 95.) Defendant requests a continuance of thirty to forty-five days. In support of the motion, defendant's counsel explains that he has been unable to visit his client at Stevens Correctional Center¹ and prepare for pretrial motions and trial due to counsel's exposure to COVID-19. Furthermore, counsel is serving as a caretaker to his family member who has contracted COVID-19. Counsel explains that, accordingly, he will not be prepared to file pretrial motions or to begin trial. The government does not oppose the motion.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant

¹ Counsel also notes that an in-person meeting with his client at this location requires a round trip of 4.5 to 5 hours.

defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h) (7) (B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h) (7) (B) (iv).

Accordingly, the court hereby **ORDERS** as follows:

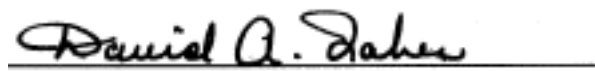
1. The deadline for the filing of pretrial motions is continued to **August 31, 2022;**
2. The Pretrial Motions Hearing is continued to **September 7, 2022, at 1:30 p.m. in Bluefield;**
3. Jury Instructions and Proposed Voir Dire are due by **September 7, 2022;**
4. Trial of this action is continued to **September 13, 2022, at 9:30 a.m.** in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h) (7) (A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 11th day of July, 2022.

ENTER:

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David A. Faber
Senior United States District Judge